REMARKS

Applicants respectfully traverse and request reconsideration.

Applicants' attorney wishes to thank the Examiner for the courtesies extended during the telephone conferences of February 24 and 25, 2009. As discussed, Applicants believe that the Examiner's characterization of the claims as including subject matter that must be ignored in view of *In re Gulack* and *In re Lowry* cases is misplaced.

Claims 5 and 25 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Keith. The office action rejects these claims for among other reasons, that "data access instructions descriptor is non-functional descriptive materials, and this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability…" (office action, pages 3 and 4). This statement was made with respect to the claimed "second data descriptor item" being in the form of at least a data access instructions descriptor. In addition, the "Response to Arguments" section states:

> "the second data descriptor is in the form of at least a data access instruction descriptor that provides instructions on how to access the raw data in the raw data item and references paragraph 52 in the specification. Paragraph 52 of the specification described the instructions as "either user readable or computer readable", where "[t]he user readable text can be, for example, a textual description instructing how to access or otherwise manipulate or use the information stored in the raw data item", and it respectfully submitted that this describes non-functional descriptive material and does not distinguish the claimed invention from the prior art in terms of patentability." (Pages 15 and 16 of office action).

Applicants respectfully submit that the Examiner's position that claim language must be effectively ignored since it refers to a data item that can be displayed, in one embodiment, ignore other claim language and is inconsistent with the cases cited in the office action and inconsistent with the MPEP §2106.01. Applicants respectfully submit that claim language is being ignored in an effort to render the claims unpatentable. *In re Lowry*, 32 F. 3d 1579 (Fed. Cir. 1994) actually

supports Applicants' position. *In re Lowry* specifically cautions against the Examiner's position and requires that all the claim language must be considered and only claims directed to per se non-functional descriptive material were unpatentable. The memory and data structure in *In re Lowry* was held to be patentable. The MPEP also supports Applicants' position since the description of non-functional descriptive material is identified as including "music, literary works, and a compilation or mere arrangement of data" and is described as non-statutory (although the rejection is not a 101 rejection) when they are claimed as descriptive material per se. Per se means that an entire claim is solely directed to the data itself. (See *In re Lowry* and *In re Gulack*).

The current claims are not directed to memory containing only per se data. In fact, the claims are not claiming data storage, but to the contrary, claim 5 is actually directed to a system that employs a processing device and memory containing executable instructions that cause the processing device to create at least a first data descriptor item and at least a second data descriptor item based upon a raw data item…and to link the raw data item to the at least first descriptor data item and to link the raw data item to at least the second data descriptor item…wherein the second data descriptor item is in the form of at least a data access instructions descriptor… . The executable instructions stored on the computer readable as claimed is operative to perform linking operations among certain data which is clearly functional.

Stated another way, the case law is directed to preventing claims that solely claim the data itself and as such, is a claim to per se data such as music, photographs, etc. In contrast, Applicants' claims are directed to memory with stored executable instructions that cause a processor, when executed, to perform certain linking operations among certain types of data to provide a unique data management system not described in the cited prior art. Applicants respectfully submit that the rejection is based on in improper legal basis and factual basis and as such, the claim rejections must be withdrawn and the claims passed to allowance.

Claims 25 and 27 have also been rejected for similar grounds and as such, these rejections must be withdrawn as indicated above.

Support for new claim 28 may be found, for example, in paragraph 63 and elsewhere and is directed to generating a plurality of knowledge models that are in different formats, for the same raw data item. By way of example, the same raw data item, such as a video, has a plurality of different knowledge models generated therefrom wherein the knowledge models are in different formats, such as but not limited to decision trees, rule sets, rural networks, expression trees, etc. The same raw data is analyzed to produce differing knowledge models so that the same raw data information may be represented by differing knowledge models that may focus on different aspects of the raw data item. Multiple knowledge model generation from the same raw data item operation does not appear to be discussed or taught or suggested by the cited references.

Claims 1, 6-12, 14-22 and 27 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Keith in view of U.S. Publication No. 2003/0055835 (Roth). These claims were rejected under Keith for the same reasons as the §102 rejection. Therefore, Applicants respectfully reassert the above relevant remarks.

Accordingly, Applicants respectfully submit that the claims are in condition for allowance and that a timely Notice of Allowance be issued in this case. The Examiner is invited to contact the below-listed attorney if the Examiner believes that a telephone conference will advance the prosecution of this application.

Respectfully submitted,

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